

CODE	Section IV MARKETING
MARKETING ACTIVITIES As Applicable, use Worksheets WS-MK1, WS-MK2 and WS-MK3	
MK01	<p>The M+CO Organization offers plans to all Medicare-beneficiaries and provides adequate written descriptions of its rules, procedures, benefits, fees and other charges, services, and other necessary information for the beneficiary to make an informed decision about enrollment.</p> <p>42 CFR 422.111(a) and (b); National Marketing Guidelines [] MET [] NOT MET [] NOTE</p>
MOE	<p><u>Benefits Review:</u> As part of the marketing section of the review, review the Medicare benefits package(s) to ensure the following:</p> <p><input type="checkbox"/> All benefit packages must be marketed throughout the M+CO's Organization's entire HCFA-approved service area. To do so:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Request and review onsite specific marketing materials and EOCs for EACH COUNTY in the HCFA-approved plan service area to ensure that all filed and approved plans are available throughout this area. <input type="checkbox"/> If possible, attend a marketing presentation / demonstration and ensure that all Medicare and M+CO Organization-contracted benefits are available and offered by the M+CO Organization. <input type="checkbox"/> Obtain a copy of newspaper ads or other media announcing the open enrollment period; and review materials to ensure compliance. <input type="checkbox"/> For M+C Organizations that have continuous open enrollment, verify that they periodically advertise the availability of their M+CO Organization by newspaper, radio, TV, or direct mail. <input type="checkbox"/> For M+COs Organizations that have open enrollment periods, the M+CO Organization must advertise during the open enrollment period throughout the service area, using mass media, such as newspapers, radio, or television. <input type="checkbox"/> M+COs have flexibility in determining the amount and type of advertising they conduct. However, the reviewer must determine if an acceptable minimum amount of advertising conducted in media of "general circulation" was initiated by the M+CO. <input type="checkbox"/> For M+COs Organizations with closed enrollment/enrollment capacity waivers, the M+CO Organization adheres to the terms of the capacity waiver.
MK01a New Element	<p>The M+CO Organization charges Medicare members only for deductible and coinsurance amounts for furnished covered services; non-covered services or services for which the enrollee is liable; and services for which Medicare is not the primary payer.</p> <p>42 CFR 422.308(a)(1) and (b) [] MET [] NOT MET [] NOTE</p>
MK01b New Element	<p>The M+CO Organization offers its plan(s) to all Medicare enrollees residing in the plan's service area or segments of an M+C plan service area at a uniform premium and with a uniform level of cost-sharing. 42 CFR 422.100(d), 422.304(b)(2) [] MET [] NOT MET [] NOTE</p>
MOE MK01b	<p>Note to Reviewer: The M+CO must provide "conversion rights" to all individuals who are already members of the M+CO in the month before the month they become eligible for Medicare. These "conversion rights" may be extended to individuals who do not reside in the plan's HCFA-approved service area, if the M+CO elects this option and if the access requirements in 42 CFR 422.112 are met. 42 CFR 422.50(a)(3)(ii)</p>
MK02 New	<p>The M+CO Organization publicizes the annual election period (November) and all enrollment periods, whether of limited or continuous duration, through appropriate media, throughout its service (and continuation) area.</p>

Element	42 CFR 422.80(c)(2)	[] MET [] NOT MET [] NOTE
MOE MK02	<p>Determine &/or Review:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The M+CO's Organization's marketing strategy for the Medicare program and projected enrollment growth through interviews with marketing personnel. <input type="checkbox"/> The M+CO's Organization's marketing reference sources such as the marketing/advertising plan, trainer's manual, and bulletins discussing coverage and rules for accuracy of presentation of the Medicare contract (e.g., lock-in, access to emergency, or urgently needed out-of-area care properly explained). <input type="checkbox"/> The accuracy and completeness of information presented by attending a training session for new marketing representatives or a marketing presentation to prospective enrollees. <input type="checkbox"/> Review of M+CO Organization marketing materials (as defined in 422.80(b)) notifies the general public of its enrollment period (whether time-limited or continuous) in an appropriate manner, through appropriate media, throughout its service and continuation area. 	
MK03	<p>The M+CO Organization must provide a current copy of their Evidence of Coverage (EOC) that clearly describes member rights and rules to enrollee (as defined by HCFA) <u>at the time of enrollment and annually thereafter.</u> (Time of enrollment is defined as the beneficiary receiving the EOC no later than 15 14 days after the effective enrollment date.)</p> <p>42 CFR and 422.111(a)(1), (2) and (3); OPL 2000.130; National Marketing Guidelines</p>	[] MET [] NOT MET [] NOTE
MOE MK03	<p>The M+C Organization must provide, and be able to substantiate the release date (date used by M+CO following HCFA approval date) of, a current copy of the EOC. This may be validated by the reviewer by examining the process the M+CO has in place to ensure that this function is taking place in accordance with the requirement of the element.</p> <p>M+C Manual, Chapter 3—Effective Date of Enrollment: A Medicare beneficiary's enrollment begins with the first day of the month in which his/her membership in the M+C Organization is effective, as shown on HCFA records.</p> <p>The M+C Organization must provide a current copy of their evidence of coverage (EOC) that clearly explains member rights, responsibilities and rules to enrollees <i>at the time of</i> enrollment and annually thereafter. This EOC must include requisite language pertaining to the following (pursuant to review of EOC, check all that are found in EOC):</p> <ul style="list-style-type: none"> <input type="checkbox"/> All benefits provided, including benefits offered under a point-of-service (POS) benefit, if applicable. If the M+C Organization offers an extension of membership through an affiliation agreement, confirm that the M+C Organization clearly defines the affiliate option (OPLs 96.042 and 98.076), including an unambiguous statement that an affiliation agreement is not a benefit; it is an extension of membership. Cross-check benefits specified in the EOC to the BIF PBP to confirm integrity of benefit package; <input type="checkbox"/> How and where to obtain services, including specific instructions for any POS benefit; <input type="checkbox"/> Restrictions on coverage; <input type="checkbox"/> Normal Standard and expedited appeals procedures; <input type="checkbox"/> Advance directives; <input type="checkbox"/> Disenrollment rights as well as voluntary and involuntary disenrollment procedures; <input type="checkbox"/> Grievance procedures; <input type="checkbox"/> Definition of emergency service/care, out-of-area urgently-needed service/care, POS benefit (if applicable) as well as explanation regarding the obligation of the M+C Organization to assume financial responsibility and provide reasonable reimbursement for emergency services, out-of-area urgently needed services, and any POS services specified. Review language explaining procedures for filing claims for such services; <input type="checkbox"/> Explanation of lock-in; <input type="checkbox"/> Beneficiary liability for premiums, co-payments, and the requirement that Medicare Part B premiums continue to be paid in addition to any other M+C Organization liabilities; <input type="checkbox"/> The M+CO Organization premium and benefit package may change at the beginning of each contract period, but may not change during the 	

	<p>contract period unless the change is to the advantage of the member. If a mid-year contract change to the advantage of the member is made, the M+CO must notify enrollees and must be sent in the form of a written notice at least 30 days before the effective date;</p> <ul style="list-style-type: none"> <input type="checkbox"/> The M+CO Organization or HCFA may terminate or refuse to renew the contract; <input type="checkbox"/> Coordination of benefits; <input type="checkbox"/> Moves and extended absences for members who leave the geographic area for more than 12 6 months and any affiliate option offered by the M+CO Organization. <p>Determine:</p> <ul style="list-style-type: none"> <input type="checkbox"/> How the M+CO Organization apprises Medicare beneficiary enrollees of the role of the peer review organization (PRO) and peer review system (generally this will be the EOC). Review M+C Organization materials to determine if the M+C Organization provides the name, address, and telephone number of the local PRO, along with instructions specifying how and under what circumstances, enrollees can contact the PRO. This information must be <u>clearly and prominently displayed</u> in member materials. <input type="checkbox"/> Whether the M+CO Organization notifies its enrollees of changes in M+CO rules at least 30 days before the effective date by reviewing the Regional Office M+CO marketing files for notices that describe changes (e.g., changes in provider network, benefits).
MK04 New Element	<p>The M+CO Organization demonstrates to HCFA's satisfaction that marketing resources are allocated to marketing to the disabled Medicare population as well as beneficiaries age 65 and over.</p> <p>42 CFR 422.80(e)(2)(i); QISMC 2.2.1.2 (See QR05)</p> <p style="text-align: right;">[] MET [] NOT MET [] NOTE</p>
MK05 New Element	<p>M+CO Organization may develop marketing materials designed for members of an employer group who are eligible for employer-sponsored benefits through the organization, and to furnish these materials only to such group members. Such materials must be submitted for HCFA approval of the materials applicable to M+C plan benefits.</p> <p>42 CFR 422.80(f)</p> <p style="text-align: right;">[] MET [] NOT MET [] NOTE</p>
MOE MK05	<p><u>Review:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> The application form and determine if it includes the applicant's name, sex, residence address, Medicare claim number, effective dates of entitlement to Parts A and B, information regarding whether the applicant has End Stage Renal Disease (ESRD), signature and date. Information as to whether the enrollee has Medicaid or has institutional status accompanied by a disclaimer that this information is not being used for health screening purposes or to deny the application. In addition, an authorization must be included for disclosure and exchange of information between HCFA and the M+C Organization through a statement similar to HCFA recommended language. Review portions of marketing materials that do not describe benefits specific to employer group members, ensuring materials in use are HCFA-approved. <input type="checkbox"/> In addition to the above, the application form must contain an explanation of lock-in requirements and require that applicants acknowledge such understanding. <input type="checkbox"/> Before going onsite, review M+CO's Organization's marketing material review log to ensure compliance with element. <input type="checkbox"/> Interview: Staff responsible for processing Medicare applications and associated marketing activities, if necessary.
PROHIBITED MARKETING ACTIVITIES Worksheet: WS-MK1, WS-MK2, WS-MK3	
MK06	<p>The M+C Organization does not engage in activities which materially mislead, confuse, or misrepresent the M+CO Organization:</p> <ul style="list-style-type: none"> <input type="checkbox"/> may not claim recommendation or endorsement by HCFA or that HCFA recommends that the person enroll in the organization; <input type="checkbox"/> may not make erroneous written or oral statements including any statement, claim, or promise that conflicts with, materially alters, or erroneously expands upon the information contained in HCFA-approved materials.

	<p><input type="checkbox"/> May not use providers or provider groups to distribute printed information comparing benefits of different health plans unless the materials have the concurrence of all M+COs involved and unless the materials have received prior approval from HCFA.</p> <p><input type="checkbox"/> The M+CO does not accept plan applications in provider offices or other places where health care is delivered.</p> <p><input type="checkbox"/> May not employ M+C plan names that suggest that a plan is not available to all Medicare beneficiaries. (Does not apply to plan names in effect on July 31, 2000.)</p> <p>42 CFR 422.80(e)(1)(iv), (vi), (vii) and (viii) and 422.80(c)(4); National Marketing Guidelines [] MET [] NOT MET [] NOTE</p>
MK07	<p>The M+CO Organization does not offer gifts or payment as an inducement to enroll in the organization.</p> <p>42 CFR 422.80(e)(1)(ii); National Marketing Guidelines [] MET [] NOT MET [] NOTE</p>
MK08	<p>The M+CO Organization does not conduct door-to-door solicitation of Medicare beneficiaries.</p> <p>42 CFR 422.80(e)(1)(iii); National Marketing Guidelines [] MET [] NOT MET [] NOTE</p>
MOE MK06-08	<p><input type="checkbox"/> Review: the M+CO's Organization's oversight of its marketing representatives to determine:</p> <p><input type="checkbox"/> How the M+CO Organization exercises management control over its agents, including those who are not employees;</p> <p><input type="checkbox"/> What procedures are in place to test staff's understanding of the Medicare program; and</p> <p><input type="checkbox"/> What procedures are in place to monitor the activities of the marketing staff.</p> <p><input type="checkbox"/> Personnel evaluations to determine where marketing emphasis is placed, i.e., numbers enrolled versus accuracy of enrollments (look in policies and procedures).</p> <p><input type="checkbox"/> <i>Review of the M+CO's Organization's marketing materials reveals that they contain no statements that are materially inaccurate or misleading or otherwise make misrepresentations.</i></p> <p><input type="checkbox"/> Review M+CO Organization files for sales agents' licenses (where required by state).</p> <p>NOTE to MK06: Although providers and provider groups are specifically prohibited from distributing printed information comparing M+C plans, unless the materials consist exclusively of HCFA-issued information or have been pre-approved by HCFA and all of the plans; the regulation at 42 CFR 422.80(e)(1)(vi) stipulates that physicians or providers <u>may</u> distribute health plan brochures (exclusive of application forms) at a health fair or in their offices. Physicians may also discuss, in response to an individual's patient's inquiry, the various benefits in different health plans.</p> <p>NOTE to MK08: While these regulations do prohibit door-to-door solicitation, they do not prohibit telemarketing activities intended to generate marketing leads. M+COs Organizations may utilize calling lists to generate "cold calls" to prospective enrollees, provided the M+COs Organizations do not otherwise violate the prohibition on door-to-door solicitations.</p> <p>If there are enrollee complaints about marketing representatives or other indicators of potential marketing problems (e.g., new procedures or incentive programs), check marketing staff personnel files to determine (as illustrative examples):</p> <p><input type="checkbox"/> If the M+CO Organization keeps a record of rapid disenrollment rates in each representative's file;</p> <p><input type="checkbox"/> If there is a charge-back to the agent in each case where the enrollee disenrolled within 3 months of being enrolled;</p> <p><input type="checkbox"/> If agents with high disenrollment rates are subjected to supervisory review or disciplinary actions; and</p> <p><input type="checkbox"/> If there is any record of feedback or disciplinary action in the agent's file.</p> <p><input type="checkbox"/> If there is any additional information which may be useful in making this determination</p> <p><input type="checkbox"/> Interview: Marketing personnel, and/or CEO/executive director, and/or Medicare coordinator. Reviewer has discretion to interview all or any combination of M+CO Organization marketing officials that they determine to be sufficient to glean necessary information.</p>
ONGOING MARKETING REVIEW	

MK09	<p>The M+CO-Organization submits all Medicare marketing materials <i>including election forms</i>, (e.g., ads, brochures, enrollment and disenrollment notices, and other marketing material including those prepared by contracting third parties) to HCFA at least 45 days before their planned distribution.</p> <p>Section 613 of BIPA requires HCFA to complete marketing material reviews within 10 days of receipt where the M+CO uses model language.</p> <p>42 CFR 422.80(a)(1); August 4th 2001 CMS letter to M+COs [] MET [] NOT MET [] NOTE</p>
MOE MK09	<p>Note to Reviewer: M+COs are not required to submit marketing materials that relate solely to employer group benefits to HCFA for pre-review/approval.</p>
MK10	<p>The M+CO-Organization does not distribute Medicare marketing materials if, before the expiration of the 45-day period, it receives written notice from HCFA that HCFA has disapproved the material because it is materially inaccurate or misleading or it misrepresents the organization, its marketing representative, or HCFA.</p> <p>Section 613 of BIPA requires HCFA to complete marketing material reviews within 10 days of receipt where the M+CO uses model language.</p> <p>42 CFR 422.80(c) and 422.80(e)(1)(v) [] MET [] NOT MET [] NOTE</p>
MK11 New Element	<p>The M+CO provides marketing materials in a format and using standard terminology as directed by HCFA.</p> <p>42CFR 422.80(c)(1) [] MET [] NOT MET [] NOTE</p>

<p>MOE MK11</p>	<p><u>Ongoing Marketing Review [This requirement is based on day to day monitoring of the M+COs marketing materials (desk review) and is not part of the normal on-site review process]: Marketing and Member Materials</u></p> <p>NOTE TO REVIEWER: In order for MK10 to be met, the reviewer should be convinced that the M+CO is making a good-faith effort to submit accurate and complete marketing materials to HCFA for initial review. If the evaluation of recently submitted materials undertaken during the site visit reveals that the M+CO is making the same errors on multiple occasions, corrective action should be requested.</p> <p><u>M+COs Organizations that have Submitted Materials Within the Prior 6-Month Time Period:</u> <i>The Regional Office marketing/member material review process is an ongoing process that takes place somewhat continuously beginning when the M+CO Organization receives HCFA approval to offer a managed care product to beneficiaries. Therefore, it may not be necessary for reviewers to undertake a separate review of marketing/ member materials at the time of each performance review.</i> However, for purposes of the onsite review, the HCFA reviewer should evaluate the results of this ongoing review process used by the M+CO to determine if the M+C Organization meets applicable regulatory requirements and that all marketing materials have been reviewed by HCFA. Additionally, an evaluation of accuracy of the materials as they are first submitted to HCFA is essential. Request that the M+CO Organization review and summarize the materials submitted during the prior 6-month period before the monitoring visit.</p> <p><i>Regional Offices may be maintaining a "log" detailing prior marketing material reviews. Use of this log should be incorporated as part of the monitoring process .</i></p> <p><u>M+COs Organizations that have NOT Submitted Materials Within the Prior 6-Month Time Period:</u> While onsite, review M+CO Organization marketing materials, including enrollment and disenrollment letters and notices, claims notices, and other marketing materials obtained from the review of other samples (e.g., letters prepared by third parties such as contracting medical groups and /or doctors). Review for accuracy and completeness of information, including lock-in for risk-based contractors, definition of emergency and urgently needed care, Medicare appeals, and grievance language. Utilize the National Marketing Guidelines.</p> <p>HCFA determines that the marketing materials are provided in a format (and, where appropriate, print size), and using standard terminology that may be specified by HCFA, the following information to Medicare beneficiaries interested in enrolling:</p> <ul style="list-style-type: none"> -adequate written description of rules, procedures, basic benefits and services and fees, and other charges; -adequate written explanation of the grievance and appeals process, including differences between the two, and when it is appropriate to use each; -any other information necessary to enable beneficiaries to make an informed decision about enrollment; -include in the written material notice that the M+C Organization is authorized by law to refuse to renew its contract with HCFA, that HCFA may refuse to renew the contract and that termination or non-renewal may result in termination of the beneficiary's enrollment in the plan; -for markets with a significant non-English speaking population, provide materials in the language of these individuals.
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